

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

MATTHEW LLOYD B.,

Plaintiff,

8:22-cv-01295 (BKS/DEP)

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Appearances:

For Plaintiff:

Howard D. Olinsky
Kaelin L. Richard
Olinsky Law Group
250 South Clinton Street - Suite 210
Syracuse, NY 13202

For Defendant:

Carla B. Freedman
United States Attorney
Geoffrey M. Peters
Special Assistant United States Attorney
Social Security Administration
6401 Security Boulevard
Baltimore, MD 21235

Hon. Brenda K. Sannes, United States District Judge:

MEMORANDUM-DECISION AND ORDER

Plaintiff filed this action under 42 U.S.C. § 405(g) seeking review of a decision by the Commissioner of Social Security (the “Commissioner”) denying Plaintiff’s application for Disability Insurance Benefits. (Dkt. No. 1). This matter was referred to United States Magistrate Judge David E. Peebles for a Report and Recommendation. (Dkt. No. 17). On September 29, 2023, after reviewing the parties’ briefs, (Dkt. Nos. 12, 13, 14), and the Administrative Transcript,

(Dkt. No. 9), Magistrate Judge Peebles issued a Report and Recommendation recommending that Plaintiff's motion for judgment on the pleadings be granted, Defendant's motion for judgment on the pleadings be denied, the Commissioners decision be vacated, and this matter be remanded for further proceedings, without a directed finding of disability. (Dkt. No. 17, at 32). Magistrate Judge Peebles advised the parties that under 28 U.S.C. § 636(b)(1), they had "14 days within which to file written objections" to the Report and Recommendation and that "failure to object to th[e] report within 14 days will preclude appellate review." *Id.* (citing *Roldan v. Racette*, 984 F.2d 85 (2d Cir. 1993)). Neither party filed an objection to the Report-Recommendation.

As no objection to the Report-Recommendation has been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment. Having reviewed the Report and Recommendation for clear error and having found none, the Court adopts the Report and Recommendation in its entirety.

For these reasons, it is hereby

ORDERED that Magistrate Judge Peebles's Report-Recommendation (Dkt. No. 17) is **ADOPTED** in all respects; and it is further

ORDERED that Plaintiff's motion for judgment on the pleadings (Dkt. No. 12) is **GRANTED**; and it is further

ORDERED that Defendant's motion for judgment on the pleadings (Dkt. No. 13) is **DENIED**; and it is further

ORDERED that this matter is **REMANDED** for further proceedings consistent with this decision and order, without a directed finding of disability, pursuant to sentence four of 42 U.S.C. § 405(g).; and it is further respectfully

ORDERED that the Clerk of the Court enter Judgment and close this case.

IT IS SO ORDERED.

Dated: November 14, 2023
Syracuse, New York

A handwritten signature in black ink, reading "Brenda K. Sannes". The signature is written in a cursive style with a horizontal line underneath the name.

Brenda K. Sannes
Chief U.S. District Judge